IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6071 of 2007()

CRMP.2302/2007 of DISTRICT COURT, ALAPPUZHA
CRIME NO.93 OF 2007 OF EDATHUA POLICE STATION

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PETITIONER : ACCUSED:

C.SHIVAJI, PERISHEERIL HOUSE,
KODUPUNNA MURI, EDATHUA VILLAGE, KUTTANADU TALUK.

BY ADV. SRI.S.SANTOSH KUMAR (PERUNAD)
SMT.DEEPAK THOMAS

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6071 of 2007

Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations for offences punishable under Section 420 I.P.C. The crime is registered at Edathwa Police Station as Crime No.93 of 2007, submits the learned Public Prosecutor and not at Ambalapuzha Police Station as alleged in the bail application.

2. The crime has been registered on the basis of a private complaint filed by the defacto complainant before the learned Magistrate which the learned Magistrate referred to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioner apprehends imminent arrest. The petitioner's application for anticipatory bail was dismissed by the learned Sessions Judge.

3. The learned counsel for the petitioner submits that the petitioner is innocent. An amount of Rs.80,000/- was allegedly collected from 4 job seekers on the promise that job visas will be made available to them. Draft for a portion of that amount was allegedly obtained in the name of one Haris by the petitioner. Transfer documents etc. were also handed over. Documents have not been returned. Job visas have not been furnished. Amounts have not been returned. The petitioner is absconding. It is, in these circumstances, that a complaint was filed by the defacto complainant.

4. The learned Public Prosecutor opposes the application. All the available indications point to the culpability of the petitioner. At any rate, this is not a fit case where anticipatory bail can or ought to be granted to the petitioner. The petitioner may be directed to appear before the learned Magistrate and seek regular bail, submits the learned Public Prosecutor .

5. Having considered all the relevant inputs, I am unable to find any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail.

6. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-